

Docket No: AM100186-00
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#3

Applicant: **Waldemar Pfengle**
Serial No.: **09/879,258** Attention: **Office of Petitions**
Filed: **June 12, 2001**
For: **Fungicidal Triazolopyrimid-7-ylideneamines**

Assistant Commissioner for Patents
Washington, DC 20231

January 10, 2002

Sir:

PETITION AND DECLARATION UNDER 37 CFR 1.47

Please charge deposit account 02-1197 for any fees associated with entering this petition and declaration.

Declaration

The facts and information, stated below and in the attached exhibits, are in support of this Declaration:

THAT as shown in the inventor Waldemar Pfengle's declaration, attached hereto as Exhibit 1, I am the same Charles F. Costello who has received a power of attorney in this application;

THAT the last known address of the inventor Waldemar Pfengle is:

Junkermühle 1
D-55444, Seibersbach Germany;

THAT as shown in Exhibits 2 and 3, a letter dated August 8, 2001 was sent to the inventor Waldemar Pfengle enclosing patent documents, and in Exhibit 4, the German word "Patentanmeldung" means patent application in English;

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Office of Initial Patent Examination, facsimile no.: 703-305-9822

Date:

Jan 10, 2002

Delia Coughlin
Delia Coughlin

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THAT as shown in Exhibits 5 and 6, the letter and documents discussed in Exhibit 2 was received by a Mrs. Pfrengle at the inventor's address; and

THAT as further shown in Exhibits 7 and 8, BASF Aktiengesellschaft, who has acquired all of the right, title and interest to the inventions claimed in this application, states that inventor Waldemar Pfrengle refuses to sign the declaration.

Petition

With the statements, above and in the attached exhibits, it is respectfully submitted that the inventor Waldemar Pfrengle has refused to sign the declaration in this application.

It is respectfully submitted that the statements and showings, made above and in the attached exhibits, meet the statutory burden under 35 USC 118, entitled "Filing by other than inventor", which is, that the inventor Waldemar Pfrengle refuses to execute an application for a U.S. patent.

The Office of Petitions is respectfully requested to notify the inventor, Waldemar Pfrengle, of this Petition and then forward this application to Art Unit 1614 for examination.

Respectfully submitted,



Charles F. Costello

Attachments

BASF Corporation
Intellectual Property Department
3000 Continental Drive - North
Mount Olive, New Jersey 07828-1234
Tel. No. (609) 716-3273

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JAN 2 8 2002

OFFICE OF PETITIONS

EXHIBIT 1Docket No. AM 100186-00
Patent**COMBINED DECLARATION AND POWER OF ATTORNEY**
(Original, Design, Supplemental, Divisional, Continuation, CIP)

As the below named inventor, I hereby declare that:

INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TITLE OF INVENTION**FUNGICIDAL TRIAZOLOPYRIMID-7-YLIDENEAMINES****SPECIFICATION IDENTIFICATION**

the specification of which: (complete (a), (b), or (c))

- (a) ☐ is attached hereto.
- (b) ☒ was filed on **June 12, 2001** as
☒ Serial Number **09/879,258**
☐ Express Mail No. , as Serial Number not yet known
- (c) ☐ was described and claimed in PCT International Application No. filed on
and as amended under PCT Article 19 on (if any).

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37 CFR 1.56(a).

PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate or of any PCT International application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate of any PCT International application(s) designating at least one country other than the United States of America

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filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

- (d) ☐ No such applications have been filed.
(e) ☒ Such applications have been filed as follows.

NOTE: Where item (c) is entered above and the International Application which designated the U.S. claimed priority, check item (e), enter the details below and make the priority claim.

Earliest Foreign Application(s), if any, filed within 12 months (6 months for Design) prior to this U.S. Application

Country	Application No.	Date of Filing (Day, Month, Year)	Priority Claimed 35 USC 119

All Foreign Application(s), if any, Filed More Than 12 Months
(6 Months for Design) Prior to This U.S. Application)

CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)
(35 U.S.C. § 119(E))

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

60/211,168

FILING DATE

June 13, 2000

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**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)
UNDER 35 U.S.C. 120**

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT International filing date of this application.

**PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS
DESIGNATING THE U.S. FOR BENEFIT UNDER 35 USC 120**

U.S. Applications		Status (Check One)			
U.S. Applications	U.S. Filing Date	Patented	Pending	Abandoned	
1.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

PCT Applications Designating U.S.		
PCT APPLICATION NO.	PCT FILING DATE	U.S. SERIAL NO. ASSIGNED (if any)
3.		
4.		

Docket No. AM 100186-00
Patent

POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Barbara V. Maurer	Reg. No. 31,278
Charles F. Costello	Reg. No. 27,324
Karen M. Dellerman	Reg. No. 33,592
David T. Banchik	Reg. No. 36,439
Fernando A. Borrego	Reg. No. 34,780
Mary E. Golota	Reg. No. 36,814
Anne G. Sabourin	Reg. No. 33,772
Brian W. Stegman	Reg. No. 30,977
Gerald L. Coon	Reg. No. 29,910
Mark A. Westhafer	Reg. No. 42,220
Elaine T. Sale	Reg. No. 41,286

☐ Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

SEND CORRESPONDENCE AND TELEPHONE CALLS TO:

Intellectual Property Department
BASF Corporation
3000 Continental Drive - North
Mount Olive, New Jersey 07828-1234
Tel. No. (609) 716-3273

Docket No. AM 100186-00
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DECLARATION

I hereby declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Full name of **SOLE OR FIRST INVENTOR** **WALDEMAR PFRENGLE**

Inventor's Signature _____ Date _____
Country of Citizenship **Germany**
Residence **Seibersbach, Germany**
Post Office Address **Junkermuehle 1, D-55444, Seibersbach, Germany**

Full name of **SECOND JOINT INVENTOR**

Inventor's Signature _____ Date _____
Country of Citizenship _____
Residence _____
Post Office Address _____

Full name of **THIRD JOINT INVENTOR**

Inventor's Signature _____ Date _____
Country of Citizenship _____
Residence _____
Post Office Address _____

Full name of **FOURTH JOINT INVENTOR**

Inventor's Signature _____ Date _____
Country of Citizenship _____
Residence _____
Post Office Address _____

BASF

To: Dr. M. Niedenbrück **Date:** July 9, 2001
Location: Ludwigshafen **Copy to:**
From: C. F. Costello
Location: Princeton
Extension: 3273
Subject: FUNGICIDAL TRIAZOLOPYRIMID-7-YLIDENEAMINES
Reference: Case No. AM 100186-00 USA

Matthias:

Here is a Combined Declaration and Power of Attorney, and an Assignment for the subject U.S. application.

Please have the inventor sign and date both documents. Also, please have someone witness the inventor's signature in the Assignment. It is preferred but not required that the witness be a notary public. Then, please return the documents to me at:

Charles F. Costello, Esq.
Intellectual Property Department
BASF Corporation
Quakerbridge and Clarksville Roads
(P.O. Box 400)
Princeton, New Jersey 08543-0400 USA

A response at your convenience, and preferably by September 7, 2001, is requested and will be appreciated.

If you have any questions, please contact me.

Charlie Costello /dc

Charles F. Costello

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OFFICE OF PETITIONS

BASF Aktiengesellschaft

BASF

BASF Aktiengesellschaft 67056 Ludwigshafen

Patente, Marken und Lizenzen
Patents, Trademarks and LicensesDatum: 21.08.2001**EXHIBIT 2**AHP-Patentanmeldung U.Z.:
auf BASF AG übergegangen)Pat. 100 186 (PT-act-Phase)
USA

Sehr geehrter Herr

Dr. Pfengli

Bitte unterschreiben Sie heiliegende Patent-Unterlagen mit blauem Kugelschreiber mit Vor- und Zunamen (bzw. so wie an der Unterschriftsline angegeben) und tragen Sie bitte kein Datum ein.

Sollte sich Ihre Adresse geändert haben, teilen Sie uns diese bitte auf diesem Schriftstück mit.

☒ Bei USA, Canada bitte zusätzlich um je1.. Zeugenunterschriften) - neutrale Person(en), auch in Maschinenschrift wiederholen.

☐ Ein USA Auslandstext zum Verbleib.

☒ Für die Rücksendung der Dokumente liegt ein frankierter Rückumschlag bei.

☐ Für die Rücksendung der Dokumente liegt ein DHL Rückumschlag bei.
Die DHL-Kunden-Nr. der BASF AG in Ludwigshafen ist: 960300464. Wenn Sie diese Nr. angehen, werden die Versandkosten der BASF AG in Rechnung gestellt.

Der/die heiliegende(n) Dollar ist/sind der/die symbolische(n) Erfinder-Dollar für USA bzw. CA.

Vielen Dank für Ihre Bemühungen im voraus.

Mit freundlichen Grüßen

BASF Aktiengesellschaft

67056 Ludwigshafen

GVX A - C 6

Frau Bortt

Tel: 0621/6040085

Fax: 0621/6052538

e-mail: tanja.bortt@basf-ag.de

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OFFICE OF PETITIONS

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E-Mail: anm.basf@basf-ag.de
Internet: http://www.basf.de

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17250 Ludwigshafen, Deutschland
Registrierungsamt Amtsgericht Ludwigshafen
Eintragungsnummer: HRB 2000
Bankverbindung:
Winterbank Bank GmbH 31119 Azzel.
Kontokorrent-Konto: 31119 Azzel.

Aufsichtsratsvorsitzender: Bernhard Lohninger
Vorstand: Jürgen Bauer, Vorsitzender;
Max Christian Key, stellv. Vorsitzender;
Herbert Böck; Jörg Feldmann;
Jürgen Harnisch; Stefan Harnisch;
Peter Daxler; Egbert Vossner

EXHIBIT 3



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Search term (English or German):



Unterlagen

Search

Clear

Help



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This dictionary contains 284499 entries!

1014068 requests today

search results for 'Unterlagen'

English:

documentation [tech.]

German:

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Hints:

FAQ - Freq Questions

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EXHIBIT 4

LEO - Link Everything OnlineAn Online Service by Informatik der Technischen Universität München

Search term (English or German):

Patentanmeldung



Search

Clear

Help

Keine Lust auf Pink-Slip-Parties?

Advertisement

916825 requests today

This dictionary contains 284499 entries!

1 search results for 'Patentanmeldung'

English:

patent application

German:

die PatentanmeldungOptions: (D
italics)

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<input checked="" type="radio"/>	German
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Hints:FAQ - Freq
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(Dictionary
Encyclopaedia
Conversions

EXHIBIT 5

PCY 33407
 33488
 RM 100186
 100487

Sehr geehrte Kundin,
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bitte füllen Sie die
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 auf der Rückseite aus.

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Rückschein

BASF AG

G.V.X.I.R.-C6

Frau Borth

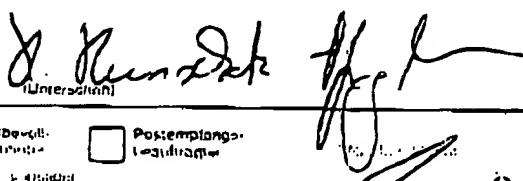

(Straße und Hausnummer oder Postfach)

67056 Ludwigshafen

(Postleitzahl) (Bestimmungsort)

Rückschein

Deutsche Post 

Sendungsart und besondere Versendungsformen		Einführungsnummer 05 8642 7486 SDE		Postleitzahl (Annahmestelle)	Einführungsdatum
Nachnahme DM	PI	Empfänger der Sendung Herr Dr. Waldemar Pfongle Finkenmühle 1			
Wien DM		Straße und Hausnummer oder Postfach 55444 Siebersbach			
		Postleitzahl, Bestimmungsort			
Sendung erhalten					
 (Unterschrift)					
Auslieferungsvermerk					
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 (Unterschrift)					

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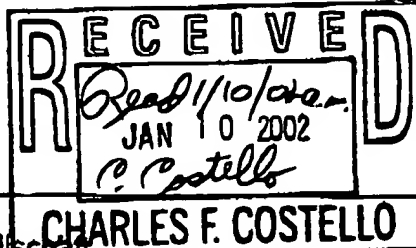
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BASF Aktiengesellschaft

EXHIBIT 6

TELEFAX

DATE Jan. 10, 2002



BASF

NUMBER OF PAGES 8

From BASF Aktiengesellschaft
Patente, Marken und Lizenzen
Patents, Trademarks and Licenses
GVX/P
Dr. Niedenbrück
D-67056 Ludwigshafen

Tel.No. 0621/60-43880

Fax-No. 0621/60-48821

TO Charles Costello
BASF Corporation, NOL/P - Princeton

FAX-NO. +1-609-275-3535

RE: Docket Nos. AM 100186
Inventor Pfrengle

Dear Charlie:

Please find attached copies of the complete correspondence we have had in connection with the above identified cases and Dr. Pfrengle:

- letter we sent to Mr. Pfrengle (dated August 20, 2001),
- respective statements of BASF Aktiengesellschaft (dated Dec. 3, 2001 signed by Dres. Meyer and Köster), which summarize the situation and should finally be filed with the USPTO and should be sufficient for fully answering the pending Office Action, and
- the Receiving Receipt from Deutsche Post which proves that Mrs. Pfrengle indeed received the documents concerning the case-nos. given on the respective postcard.

Best regards,

Matthias
Matthias

Encl:

Telefon (0621) 60-0 (Vermittlung)
Telefax (0621) 60-42525 (Zentrale)
Telefax +49 69-0 bas d (Vermittlung)
E-Mail: info.service@basf-ag.de
Internet: <http://www.basf.de>

Sitz der Gesellschaft:
67056 Ludwigshafen Deutschland
Registrierungsgericht: Amtsgericht Ludwigshafen
Eintragungsnummer: HRB 3000
Bankverbindung:
Wiesenhof Bank GmbH 34119 Karsdorf
Girokonto 400 505 (BLZ 520 200 00)

Aufsichtsratsvorsitzender: Berthold Leibinger
Vorstand: Jürgen Strube, Vorsitzender;
Max Dietrich Kley; stellv. Vorsitzender;
Helmut Beck; John Feldmann;
Jürgen Hübner; Stefan Marchewski;
Peter Oakley, Eggert Wochersu

BASF Aktiengesellschaft

BASF

BASF Aktiengesellschaft D-67056 Ludwigshafen

Patente, Marken und Lizenzen
Patents, Trademarks and Licenses

December 03, 2001

GVX/A - C 6

Dr. Köster

Tel.: (+49)-621 60-49217

FAX: (+49)-621 60-48821

EXHIBIT 7

Inventor: Dr. Waldemar Pfrengle
Junkermühle 1
D-55444 Seibersbach

Patent Application No. 09/879258 filed on June 12, 2001
AM100186-00

The following information is provided based on the facts that BASF Aktiengesellschaft has acquired right and title to the above-identified patent application from the original applicant American Cyanamid Company.

The application is based on the invention of Dr. Waldemar Pfrengle who is co-inventor for the above-identified patent application. Dr. Pfrengle was an employee of American Cyanamid Schwabenheim GmbH, who acquired the rights to this invention based on the German Law relating to Employees Inventions (Arbeitnehmererfindergesetz). American Cyanamid Schwabenheim GmbH transferred the right to the above invention to their parent company American Cyanamid Company, US.

Despite various efforts of BASF Aktiengesellschaft to have Dr. Pfrengle signed the formality papers relating to the Inventor's Declaration or Designation of Inventor, Dr. Pfrengle refused and still refuses today to sign any of those documents.

Very truly yours
BASF Aktiengesellschaft

W. Pfrengle
W. Pfrengle
M. Köster
M. Köster

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OFFICE OF PETITIONS

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Registergericht: Amtsgericht Ludwigshafen
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Wintershall Bank GmbH 34110 Kassel
Girokonto 400 505 (BLZ 520 200 00)

Aufsichtsratsvorsitzender: Berthold Leisinger
Vorstand: Jürgen Strube, Vorsitzender;
Max-Dietrich Kley, stellv. Vorsitzender;
Holmut Becke; Jean Feldmann;
Jürgen Hambrecht; Stefan Marschowski;
Peter Oakley; Eggert Moscheron

BASF Aktiengesellschaft

BASF**EXHIBIT 8**

BASF Aktiengesellschaft · D-67056 Ludwigshafen

Patente, Marken und Lizenzen
Patents, Trademarks and LicensesBASF Corporation
Mrs. Beth Maurer
3000 Continental Drive
Mount Olive, NJ 07828
USADecember 03, 2001
GVN/A - C 6
Dr. Köster
Tel.: (+49)-621-601-10217
FAX: (+49)-621-601-48821

Case AM100186-00

Dear Mrs. Maurer,

Unfortunately we are unable to submit the executed documents because Dr. Waldemar Pfrengle is not willing to cooperate (please find enclosed our letter to Dr. Pfrengle dated August 20, 2001).

Would you please file the attached formal paper at the US Patent Office.

If you have any questions please feel free to contact me.

With best regards,
BASF Aktiengesellschaft
Patent Department

R. Köster

Köster

Encl.

Telefon (0621) 60-0 (Vermittlung)
Telefax (0621) 60-42525 (Zentrale)
Telex 86488-B BAS D (Vermittlung)
E-Mail: info.service@basf-ag.de
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67056 Ludwigshafen, Deutschland
Registergericht: Amtsgericht Ludwigshafen
Eintragungsnummer: HRB 3000
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Wintershall Bank GmbH 34118 Kassel
Girokonto 400 505 (BLZ 520 200 00)Aufsichtsratsvorsitzender: Bernhard Leibinger
Vorstand: Jürgen Seubs, Vorsitzender;
Max Dietrich Kloy, stellv. Vorsitzender;
Helmut Beck; John Feldmann;
Jürgen Hambrecht; Stefan Margonowski;
Peter Oakley; Eggen Vescherau